

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:10CR248
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
DIABLO S. WILLIAM,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 39).¹ The government adopted the PSR (Filing No. 37). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶¶ 18, 26, and 29. Specifically, he objects to the lack of a downward adjustment for three levels of acceptance of responsibility. The objection will be heard at sentencing, and the Defendant has the burden by a preponderance of the evidence.

The Defendant also objects to “all facts” regarding the alleged robbery described in ¶ 59. The objection does not affect the Defendant's criminal history score. The objection is denied.

IT IS ORDERED:

1. The Defendant’s objection to ¶ 59 is denied;
2. The Defendant's objections to ¶¶ 18, 26, and 29 will be heard at sentencing;

¹The Defendant's objections were not submitted to the Probation Officer as required under the Order on Sentencing Schedule.

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 18th day of April, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge